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## DIRECTION

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### The Direction on the Rent Standard 2019

The Secretary of State makes the following Direction in exercise of the powers conferred by section 197 of the Housing and Regeneration Act 2008(a).

In accordance with section 197(4) and (5) of that Act, before making this Direction the Secretary of State consulted the Regulator of Social Housing, the Greater London Authority, the Charity Commission and bodies appearing to the Secretary of State to represent the interests of local housing authorities, tenants of social housing and registered providers.

#### **Citation, commencement and application**

- 1.—(1) This Direction may be cited as the Direction on the Rent Standard 2019.
- (2) This Direction comes into force on the day after the day on which it is made.
- (3) This Direction applies to the regulator in relation to the rents of registered providers of social housing.

#### **Interpretation**

- 2.—(1) In this Direction—
  - “the 2016 Act” means the Welfare Reform and Work Act 2016(b).
  - “the 2020 limit” means the amount calculated in accordance with paragraph 3;
  - “affordable rent housing” has the same meaning as in paragraph 3.3 of the Rent Policy Statement;
  - “CPI” means the general index of consumer prices (for all items) published by the Office for National Statistics or, if that index is not published for any month, any substituted index or index figures published by that Office; and where this Direction refers to CPI, this shall be the figure for CPI for September of the preceding financial year;
  - “existing tenant” means any tenant other than a tenant who is granted a tenancy of the accommodation for the first time;
  - “financial year” means a year beginning on 1 April;
  - “registered provider” means a registered provider of social housing;
  - “regulator” means the regulator of social housing;
  - “Rent Policy Statement” means the Policy Statement on Rents for Social Housing issued by the Secretary of State on 26 February 2019;
  - “rent restriction period” has the same meaning as in section 31(10) of the 2016 Act;
  - “rent standard” means a standard for registered providers requiring them to comply with specified rules about their levels of rent set under section 194(2A) of the Housing and Regeneration Act 2008;
  - “supported housing” has the meaning in paragraphs 2.38 and 2.39 of the Rent Policy Statement.

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(a) 2008 c. 17.

(b) 2016 c. 7

(2) Any expression which is used, but not defined, in this Direction has the same meaning as in the Housing and Regeneration Act 2008.

### **Calculation of the 2020 limit**

3. The 2020 limit is calculated by—
- (a) determining the average weekly rent for the tenant’s accommodation in the fourth of the relevant years specified in section 23(6) the 2016 Act, and
  - (b) increasing that amount by CPI + 1%,
  - (c) in this paragraph, “average weekly rent” means—
    - (i) in a case where the weekly rent changes because the accommodation is re-let after the start of the fourth year, the weekly rent payable by that tenant for that accommodation in respect of the most recent period for which rent was payable at that changed rate provided that that change complies with the requirements of the social housing provisions of the 2016 Act and any Regulations made under those provisions; or
    - (ii) in any other case, the average weekly rent payable by the tenant of that accommodation in respect of the fourth year,
  - (d) for the purposes of sub-paragraph (c), “social housing rent provisions” has the meaning in section 33 of the 2016 Act.

### **Formula rent**

- 4.—(1) The formula rent of accommodation is to be calculated in accordance with the method set out in paragraphs 2.4 to 2.6 of the Rent Policy Statement with upwards tolerance of—
- (a) if the accommodation is supported housing, 10% of formula rent; or
  - (b) if the accommodation is not supported housing, 5% of formula rent.
- (2) But as set out in paragraphs 2.8 and 2.9 of the Rent Policy Statement formula rent is subject to the rent cap.
- (3) The rent cap is determined in accordance with paragraphs 11 and 12 of Appendix A to the Rent Policy Statement.

### **Direction to set a rent standard**

- 5.—(1) The regulator must set a rent standard that applies from 1 April 2020 in relation to low cost rental accommodation that is not—
- (a) let to a high income social tenant; or
  - (b) accommodation to which the Rent Policy Statement does not apply<sup>(a)</sup>.
- (2) The rent standard must require registered providers to comply with the rules about their levels of rent set out in paragraphs 7 and 8 of this Direction.
- (3) The regulator must have regard to the Rent Policy Statement when setting the rent standard.
- (4) In this paragraph—
- “high income social tenant” means the tenant of a household that had a total household income of £60,000 or more in the relevant tax year, where—
- (a) “total household income” means, in relation to accommodation—
    - (i) if there is one resident, the income of that resident;
    - (ii) if there are two residents, the sum of the residents’ incomes; and

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(a) See Chapter 5 of the Rent Policy Statement.

- (iii) if there are more than two residents, the sum of the two highest incomes of the residents;
- (b) “resident” means—
  - (i) any person who is the tenant or a joint tenant; and
  - (ii) any person who resides at the accommodation and is the spouse, civil partner or partner of the tenant or of a joint tenant;
- (c) “income” has the same meaning as “total income” as described in section 23 of the Income Tax Act 2007<sup>(a)</sup>;
- (d) “partner” means a person who is not married to, or a civil partner of, the tenant or joint tenant who lives with the tenant or joint tenant in the accommodation as if they were married or in a civil partnership; and
- (e) “relevant tax year” means the tax year ending on the 5th April which falls in the financial year prior to the financial year in which the rent is reviewed.

### **Exemptions from the rent standard**

6. The regulator may in relation to a private registered provider grant an exemption from or vary a requirement of the rent standard if the regulator considers that complying with the requirement would jeopardise the financial viability of the provider.

### **Social rent housing**

7.—(1) This paragraph applies in relation to the rent of accommodation that is not affordable rent housing.

(2) The maximum weekly rent for a tenant who is granted a tenancy of the accommodation for the first time is formula rent.

(3) Subject to sub-paragraph (4), the weekly rent of an existing tenant may not be increased by more than—

- (a) CPI + 1% in any year; or
- (b) if the tenant’s rent exceeds the rent flexibility level, CPI in any year.

(4) In the year following the end of the rent restriction period the maximum weekly rent for an existing tenant is the 2020 limit.

(5) In this paragraph—

“rent flexibility level” means—

- (a) 105% of formula rent; or
- (b) if the accommodation is supported housing, 110% of formula rent.

### **Affordable rent housing**

8.—(1) This paragraph applies in relation to the rent of affordable rent housing.

(2) The maximum gross rent for a tenant under a new tenancy is 80% of the market rent for the tenant’s accommodation, subject to sub-paragraphs (3) and (4).

(3) If the formula rent is higher than 80% of the weekly market rent for the tenant’s accommodation, the maximum weekly rent (exclusive of service charges) is formula rent.

(4) The rent of an existing tenant may not be increased by more than CPI + 1% in any year, subject to sub-paragraph (5).

(5) In the year following the end of the rent restriction period the maximum weekly rent for an existing tenant is the 2020 limit.

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(a) 2007 c. 3.

(6) In this paragraph—

“gross rent” means the rent inclusive of all service charges;

“market rent” means, in relation to accommodation, an estimate of its market rent inclusive of all service charges at the time the tenancy is granted that is based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors;

“tenant under a new tenancy” means a tenant who is—

- (a) granted a tenancy of the accommodation for the first time; or
- (b) granted a new tenancy of the accommodation, unless the tenancy follows on from a probationary tenancy.

### **Revocation and transitional provision**

9. The Direction on the Rent Standard 2014—

- (a) is to have no effect in relation to rents from 1 April 2020; and
- (b) is revoked on 1 April 2020.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

A handwritten signature in black ink that reads "Kit Malthouse". The signature is written in a cursive, slightly slanted style.

Kit Malthouse MP

Date: 25.02.2019